

# **THE ROLE OF THE LGE IN THE PROVIDER ASSESSMENT PROCESS**

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October 5, 2015

# Goals of Presentation

- Brief overview of Centers for Medicare and Medicaid Services (CMS) Settings rule
- Build an understanding of the role of the LGE in the Provider Self-Assessment Process
- Build an understanding of the monitoring process (onsite and desk audit)
- Important dates

# **MEDICAID FINAL RULE: CMS 2249-F AND CMS 2296-F**

- Published in Federal Register on January 16, 2014
- Finalized on March 17, 2014
- Applies to all HCBS 1915(i) State Plans, Community First Choice Section 1915(k), and Home and Community-Based Services **(HCBS) Waivers Section 1915(c)**

# HCBS Settings Final Rule

## The 'intent' of the rule:

For the first time, sets federal standards to ensure that Medicaid-funded Home and Community-Based Services are provided in residential and non-residential settings that are **NOT INSTITUTIONAL** in nature and are fully integrated... not just going into the community but interacting with the community, participating in the community, working in the community.....

# HCBS Settings Final Rule

- Rule focuses on the **EXPERIENCE** of each person receiving services and supports....
  - Are they living the life they want to live?
  - Are they working in the community and integrated?
  - Are they part of the community?
  
- Goal is to ensure every person receiving HCBS:
  - Has access to benefits of community living
  - Has full opportunity to be integrated in their community
  - Has enhanced protections

# Time Frame

- Louisiana's Statewide Transition Plan was submitted to CMS for approval on March 17, 2015
- Louisiana's proposed date for final compliance is **March 17, 2019** (still waiting for CMS approval)

# Reporting

- **Louisiana currently provides quarterly updates to CMS on progress made towards the Transition Plan.**
- Providers will give quarterly updates to each LGE on progress towards compliance
- LGEs will give quarterly updates to OCDD Central Office on progress being made by each Provider working towards compliance
- Central Office will utilize this information to update OCDD Section of Transition Plan

# HCBS Setting Requirements

## **The Home and Community-Based Services setting:**

- Is integrated in and supports access to the greater community
- Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources
- Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services



# HCBS Setting Requirements

- **Is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting**
  - Person-centered service plans document the options based on the individual's needs, preferences; and for residential settings, the individual's resources

# HCBS Setting Requirements

- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint
- Optimizes individual initiative, autonomy and independence in making life choices
- Facilitates individual choice regarding services and supports, and who provides them

# Residential and Non-Residential Settings

- Regulations provide **additional requirements** for **PROVIDER-OWNED RESIDENTIAL SETTINGS**
- However, ***REGULATIONS APPLY TO NON-RESIDENTIAL SETTINGS AS WELL***, including places where people receive environmental supports

# HCBS for Provider-Owned or Controlled Residential Settings

## Additional requirements:

- Specific unit/dwelling is owned, rented, or occupied under legally enforceable agreement
- Same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city, or other designated entity
- If tenant laws do not apply, state ensures lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law

# **HCBS for Provider-Owned or Controlled Residential Settings**

- Each individual has privacy in their sleeping or living unit
- Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed
- Individuals sharing units have a choice of roommates
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement
- Individuals have freedom and support to control their schedules and activities and have access to food any time
- Individuals may have visitors at any time
- Setting is physically accessible to the individual

# **HCBS for Provider-Owned or Controlled Residential Settings**

Modifications of the additional requirements must be:

- Supported by specific assessed need
- Justified in the person-centered service plan
- Documented in the person-centered service plan

# Settings that are NOT Home and Community-Based

- Nursing Facility
- IMD (Institutions for Mental Disease)
- ICF/DD
- Hospital
- Any other locations that have qualities of an institutional setting

# **Setting PRESUMED NOT to be Home and Community-Based**

- Settings in a publicly or privately-owned facility providing inpatient treatment
- Settings on grounds of, or adjacent to, a public institution
- Settings with the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS



# “Heightened Scrutiny” Process

- LGE identifies providers presumed to have qualities of an institution but that is believed to be in compliance
- LGE presents this provider to OCDD with documentation of why heightened scrutiny should occur
- LGE/OCDD will conduct public forums, request public comment and gather supporting documentation
- OCDD incorporates public comments and provides a summary of that input to CMS for “**heightened scrutiny**” process to take place
- CMS reviews for approval/disapproval

# Criteria for Settings that Isolate

Settings that have the following two characteristics alone might, but will not necessarily, meet the criteria for having the effect of isolating individuals:

- The setting is designed specifically for people with disabilities, and often even for people with a certain type of disability
- The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them

# Characteristics of Settings that Isolate

Settings that isolate people receiving HCBS from the broader community may have any of the following characteristics:

- The setting is designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities
- People in the setting have limited, if any, interaction with the broader community
- Settings that use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion)

# Services in Non-Residential Settings

- Day Habilitation
- Prevocational
- Supported Employment, Individual and Group

Many of these services have historically been provided in settings that are **segregated**.

# **Full Access to Competitive Integrated Employment**

## **Final rule:**

**The setting in which the person receives services “is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.”**

# Full Access to Competitive Integrated Employment

- Person is not ***required*** to seek employment, but cannot waive the ***opportunity*** to seek employment in the ***future!***
  - Support Coordinators (SC) will begin having discussions on a quarterly basis with individuals using the “Path to Employment” form. This form will be signed at each quarterly meeting and at each Plan of Care (POC) meeting including revisions (if involves revision to a vocational service)

# Requirements for Employment Services

- The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS
- The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences

# Requirements for Employment Services

- The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint
- The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact
- The setting facilitates individual choice regarding services and supports, and who provides them
- The HCBS regulation established a definition of HCBS based on individual experience and outcomes, rather than one based solely on a setting's location, geography or physical characteristics



# Person-Centered Service Plans

Final rule includes changes to the requirements regarding person-centered service plans for HCBS waivers under 1915(c) and HCBS state plan benefits under 1915(i) -

- Identical for 1915(c) and 1915(i)
- The person-centered POC must be developed through a person-centered planning process!

# Provider Self-Assessment Process

**Each state must engage in an extensive assessment process of its HCBS settings to determine whether the settings are compliant with CMS standards, including:**

- Completion of a self-assessment by each Provider Agency that provides services to waiver participants and turned into LGE by **September 30, 2015**
- LGE will ensure that each provider in region has turned in a self-assessment
- Random sample will be pulled by Central Office and provided to each LGE office for onsite visits and desk audits
- LGE will complete onsite visits and desk audits by **November 30, 2015**
- Providers who are not in compliance will have to complete a Provider Transition Plan by **November 30, 2015**
- LGE will review the assessments, on site visits, and desk audits where applicable and categorize the providers level of compliance and reported to OCDD Central Office by **December 31, 2015**
- Provider Agencies will provide quarterly updates to LGE on progress made towards their Transition Plan
- LGE will provide OCDD Central Office with a quarterly report on the progress made by each applicable provider in the region

# Residential Providers

## ➤ For residential providers:

- Who own or control a residential setting **or**
- Provide Host Home services **or**
- Provide Substitute Family Care

**THE ENTIRE ASSESSMENT MUST BE COMPLETED**

## ➤ For Residential Providers who do not fall into any of the above categories:

**THE DEMOGRAPHIC PAGE MUST BE COMPLETED AND ASSESSMENT SIGNED ON THE LAST PAGE**

# Non-Residential Providers

## Non-Residential Providers:

- Must complete a self-assessment for each physical location that they own/operate
- Can elect to complete a self-assessment for each service (Day Habilitation, Pre-Vocational, Supported Employment) because each function very differently and may be in varying stages of compliance with rule

# Provider Self-Assessment Categories

Settings will be categorized as follows:

1. The setting fully complies with the CMS requirements.
2. The setting, with changes, will comply with the requirements.
3. The setting is presumed to have the qualities of an institution but for which the State will provide evidence to show that the setting does have the qualities of an HCBS setting (**“heightened scrutiny”**).
4. The setting cannot meet the requirements and/or chooses not to come into compliance.

**Each provider will have to complete a Transition Plan with measureable steps of how each agency will come into compliance and provide documentation on a quarterly basis of the progress made.**

# LGE Validation Tool

- LGE receives all provider self-assessments
  - Submitting just the assessment not the supporting documentation at this time
- State Office will provide the LGE with a sample list to conduct 10% desk audit validation/10% site visit validation
  - Once sample is received the LGE should request supporting documentation from service provider to conduct desk audit
  - It is at the discretion of the LGE if they want to go visit additional provider agencies
- Tool developed for LGE to validate the assessments
- Based on the outcome of the validation the provider may be required to complete a Transition Plan

# **Review Validation Tool**

# Provider Transition Plan

- Due to LGE on November 30, 2015
- Must be written on the form provided



# OCDD Website

To locate the updates to OCDD Transition Plan and documents:

<http://new.dhh.louisiana.gov/index.cfm/page/1991>

# **CMS' Final Rule and Guidance**

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>